Scott. II-27—58,004—27-10-47.

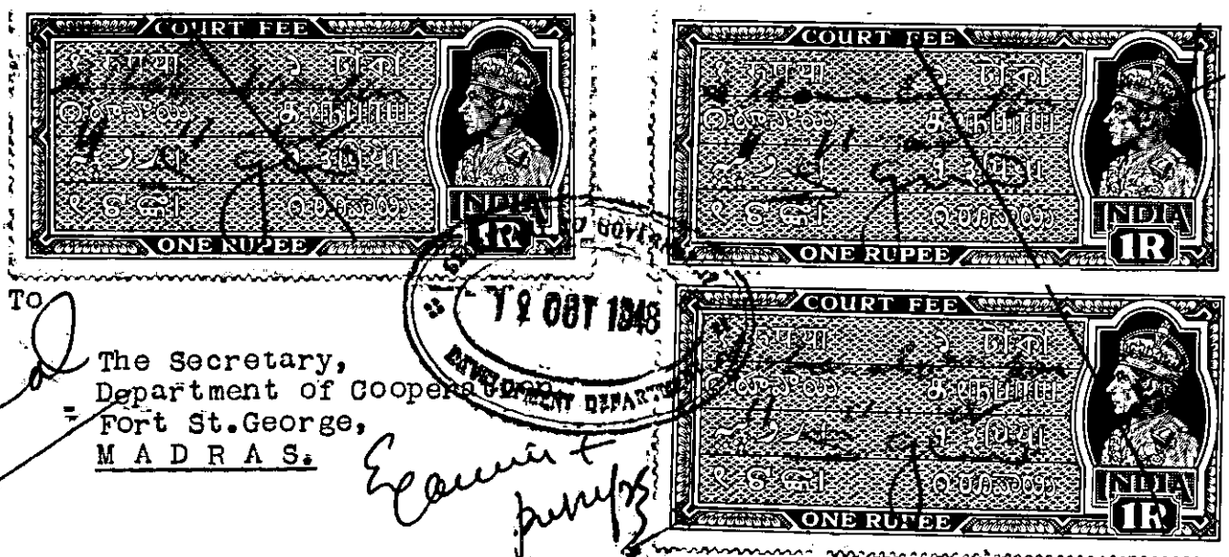
Development (1949) Department.

M.S. SERIES.

G.O. NO.	282
Dated	21-1-49

[Despatch Abstract.]

Acts & Rules - Co operature Societies Act. - Sec. 57 - Hospet Co-operative Central Bank - Board of management - Renual - Appeal orders - Passed



To

The Secretary,
Department of Cooperation,
Fort St.George,
MADRAS.

Received
Enclosure
pmk/13

PETITION UNDER S. 57 of The Madras Cooperative Societies Act, 1932.

120060 B II/48
12-11-48

Sri. A.Chennabasappa.....Petitioner.

The petitioner abovenamed begs to prefer this Memorandum of Revision Petition under S. 57 of the Madras Cooperative Societies Act VI of 1932 against the decision of the Dy.Registrar of Cooperative Societies, Bellary, dated 29th October 1948, made in Claim No. 94 of 1948.

Copy as (F)

FACTS. The Petitioner, Sri. A.Chennabasappa, Dr. R.Naganna Gowda, Sri. S.Virupakshappa, and Sri. D.Hanumantha Reddy were duly elected to the Board of Management of the Hospet Cooperative Central Bank Ltd. Hospet, by the representatives of the shareholding societies in the respective taluks of Hadagalli, Hospet, Adoni, and Alur respectively.

2. Three meetings of the Board of Management were convened for 2--5--1948, 13--5--1948 and 13--6--48; all these three meetings were consecutive meetings and all those could not be held for want of quorum.

3. A member of the committee one Sri. A.Narayana Bhat, on 28--7--1948, filed a reference under S. 51 of the Madras Cooperative Societies Act,VI of 1932 before the Deputy Registrar of Cooperative Societies, Bellary, being claim No. 94 of 1948 alleging that the abovementioned members of the committee of management, did not attend the aforementioned three consecutive meetings of the Board, and hence under Bye-law No. 20 of the Bye-laws of the Bank they ipso facto ceased to be directors of the Bank, and prayed for a declaration from the Registrar that the said persons ceased to be directors of the Bank, and for an injunction restraining the said persons from conducting the business of the Bank.

4. The petitioner herein, who was the first defendant in the reference,--claim No. 94/48--, contended

(i) that he did attend the meeting of the Board held on 13--6--1948;

(ii) that even if he did not attend all the three meetings, inasmuch as the said meetings were not held for want of quorum, he could not be ~~claimed~~ deemed to have failed to attend a "meeting" of the Board;

Dev. Dept

Dk. No

Referred to the R.C.S. for very urgent remarks.

2/

(iii) and that, in any event, the Dy.Registrar had no jurisdiction to decide the reference,

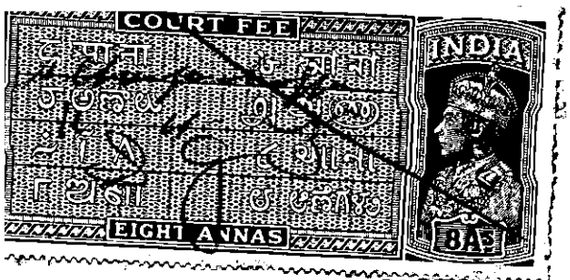
(a) because the dispute was not a dispute concerning the business of the Society; and

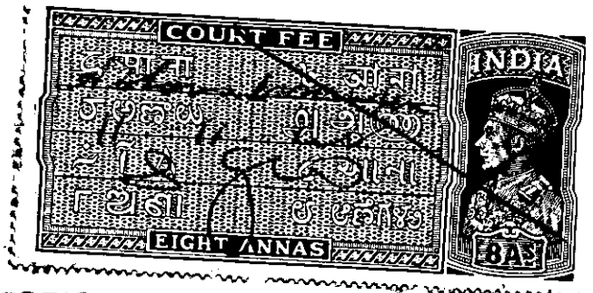
(b) because there was no dispute arising among members between a member and the society.

It was the case of this petitioner---the first defendant in the reference below----that he attended the Board Meeting convened for 13--6--1948, that he could not sign the attendance register and record his presence at the meeting because the very same Deputy Registrar who has decided this reference came to the meeting along with some ~~xxxx~~ members of the Board of Management who belonged to the group in the Board working against him, and unauthorisedly and without any right in him to do so with the ~~dis-honest~~ intention of preventing this petitioner from signing the attendance register and recording his presence took away the Attendance Register much before the time fixed for the holding of the meeting. The members of the group working against this petitioner with the intention of creating evidence that this petitioner and the aforesaid three persons did not attend the meeting made some unauthorised entries in the minutes book and the attendance register purporting as if they were made at 3-30 P.M. though really they were made long before 3 P.M. the time fixed for the meeting. The Dy.Registrar who has decided this reference had completely identified himself with the group consisting of the plaintiff in the reference before him and other persons acting against this petitioner and has further illegally, unauthorisedly and without any right in him to do so removed the records of the Bank from the Bank's custody and took theminto his own ~~own~~ custody.

5. The second defendant, Dr.R.Nagan Gowd, denied the jurisdiction of the Registrar, and contended that he could not be deemed to have failed to attend three consecutive meetings" of the Board as no meetings were in fact held for want of quorum: that it has been the practice of the Bank not to consider a meeting without quorum as a meeting for any purpose whatever. The third defendant. Sri. S.Virupakshappa adopted the legal contentions of the first twodefendants and further contended that he attended the meeting held on 2--5--1948. The fourth defendant, Sri. D.Hanumantha Reddy was ex-parte.

6. The Dy. Registrar in the above reference had to decide whether this petitioner, the first defendant before him, did or did not attend the meeting on the 13th June 1948 and an issue was raised in this respect. To decide that issue, the Deputy Registrar had to decide his own unlawful act in removing the attendance register.





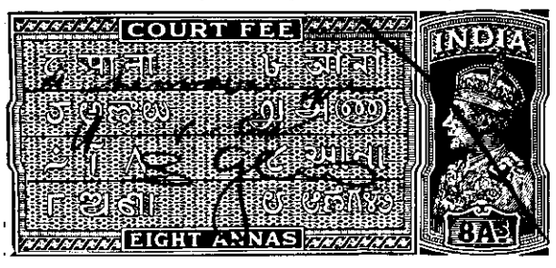
GROUNDS OF APPEAL.

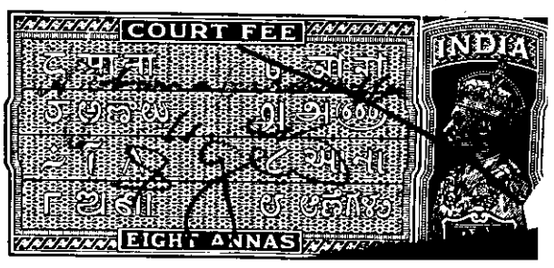
The petitioner begs that the Government be pleased to call for and examine the records of the above reference--claim No. 94 of 1948 on the file of the Court of the Dy. Registrar, Bellary and satisfy themselves as to the legality or the propriety of the decision and if the Government deems it just and necessary to do so to reverse the said order and pass such further or other orders as to the Government may seem fit and proper.

1. The order of the Dy. Registrar is contrary to law, opposed to the facts and probabilities of the case, and is against the weight of evidence.

2. The Dy. Registrar had no jurisdiction to entertain the reference and to give a decision thereon, as there was no matter in dispute between the Society and the said members, or among the members of the committee, and further the question of the directors having ceased to be directors is not a 'dispute relating to the business of a registered society'. The term "Dispute" in S.51. has been held not to include questions of constitution and membership.

3. The Dy. Registrar acted with material impropriety in deciding the reference himself. In deciding the reference he had to decide whether he did or did not on 15--6--1948 remove the attendance register before the time fixed for the holding of the meeting. He was personally concerned, his action had been called into question, and under the circumstances it was highly improper of the said Dy. Registrar to have taken upon himself the burden of deciding the reference. He could have appointed an abbitrator for that purpose. The said Deputy





Registrar did not do so. Further the Deputy Registrar had from the beginning conducted himself as if he had prejudice against this petitioner and Dr. Gowda and Mr. S.Virupakshappa and as if he had openly identified himself with the group working against this petitioner. The Deputy Registrar attended the Board meeting convened for 13--6--1948 at the instance of the opposite group; he removed the attendance register at the instance of the same group long before the time fixed for the meeting with the intention of preventing this petitioner and other directors who may come to the meeting from recording their presence in the attendance register; ~~that~~ on the evening of 13--6--1948, without giving any notice to this petitioner and Dr. Gowda and Mr. S.Virupakshappa and without giving them an opportunity to explain the charges against them, by an ex parte order in R.c. No. 2307/47-B, this very Deputy Registrar decided suo motu that the petitioner and the aforesaid Dr. Gowda and Mr. Virupakshappa directors ceased to be directors of the board of management not including in his order Mr. D.Hanumantha Reddy whose case was similar to the aforesaid persons, merely because the said Mr. D.Hanumantha Reddy belonged to the group with which the Deputy Registrar had identified himself; ~~that~~ only on an appeal to the Registrar that ex parte order so repugnant to justice could be set aside; the Deputy Registrar never gave a fair hearing to the petitioner and the other defendants; that adjournments asked for on valid and substantial grounds including the illness of the petitioner were summarily and contemptuously refused; that the Deputy Registrar throughout never brought a

judicial mind to bear upon the reference; that the Deputy Registrar had entered into acrimonious correspondence with the petitioner some time before; For the said reasons, he was not a person in whom the defendants could reasonably be expected to have confidence. His action in deciding the reference himself is repugnant to natural justice, and the Government, if only to uphold the fair name of the department for justice and impartiality, has to set aside his decision and direct if necessary that the reference be submitted to the decision of some other competent tribunal.

4. The Deputy Registrar erred in law in deciding that failure to attend meetings which were not duly consitututed and held is a failure to attend "meetings" within the meaning of the bye-law of the Bank No. 20. The Deputy Registrar has misinterpreted the said bye-law. He ought to have held that the failure to attend mieetings envisaged in the said bye-law is failure to attend validly held meetings and not failure to attend a gathering which never became a 'meeting' for want of quorum.

5. The Dy. Registrar has further erred in deciding on the evidence before him that the petitioner failed to attend the meeting of the Board on 13--6--1948. There was evidence that this petitioner was in the bank premises by 1 P.M. and there was no evidence contra. All that Basalingiah deposed was that he was present when the Deputy Registrar made the entry ~~at 3.30 P.M.~~ on page 9 and not at 3-30 p.m. that the Dy. Re made the entry that the Registrar made the entry much earlier and removed the attendance register before the time fixed for the meeting. In any event it was highly

improper of the Dy. Registrar to have taken into his custody the attendance register and the minutes book of the Bank. Neither the Act nor the Rules give him any such power. The Records have to be in the Bank's custody. The very fact that the Dy. Registrar went out of his way and acted illegally in taking into his custody the said registers throws his impartiality into debt. The Dy. Registrar is in error in deciding that this petitioner did not attend the meeting on 13--6--1948.

6. The Deputy Registrar is also in error in having held that Sri. S.Virupakshappa did not attend the meeting on 2--5--1948

For the said reasons, this petitioner prays that the above decision of the Deputy Registrar of Cooperative Societies be revised, after giving notice if necessary to

(a) Sri. A.Narayana Bhatt, Director, Hospet, Cooperative Central Bank Limited, Hospet, the plaintiff in the reference application

(b) The Dy. Registrar of Cooperative Societies, Bellary.

(c) Dr.P.Naganna Gowd, Hospet.

(d) Sri. S.Virupakshappa, Adoni.

(e) Sri. D.Hanumantha Reddy, ~~Hospet~~. Adoni.

The petitioner further prays that pending the disposal of the above revision petition, the Government be pleased to direct that the petitioner and the aforesaid Dr. R.Nagan Gowd, Sri. S.Virupakshappa, and Sri. D.Hanumantha Reddy may function as members of the Board of management of the Bank for the reasons that otherwise the business of the said Bank may result in a deadlock.

Yours obediently
A. Chennabasappa
12/11/48.

My Address of the Petitioner.
A.Chennabasappa,
Hirehadagalli, Bellary district.

Enc— Judgment (original).

pl. issue at once
Issued 15/11/48

Dev. Dept.

Memo. no. 120060 B II/48-1. Dt. 15-11-48

Sub:- Act A Rules - Cooperative Societies, Act. Inspector Cooperative Central Bank - Boards of Management - Removal. Petition under Sec. 51 of the Act.

Ref:- Petition from Sri A. Chennakesavulu dated 12-11-1948.

Ap1-2 CF

Ap1-6 CF

A copy of the appeal petition cited is referred to the R.C.S. for very early remarks. He is requested to submit the original records relating to the case for reference.

Secretary
15/11/48

15/11

To the R.C.S. (with encls.)

12/11/48

Copy of C.F.

Note:- ~~The petitioner was removed~~

To

The Hon'ble the Minister for Co-operation,
Fort St.George,
M A D R A S.

The petition of Sri. A.Chennabasappa, of the Hospet Cooperative Central Bank Limited, Hospet, showeth:

1. By order dated the 29th day of October 1948, the Deputy Registrar of Cooperative Societies, Bellary has declared that the undermentioned four directors of the Board of Management of the Bank have ceased to be directors and members of the Committee, on the ground that they had failed to attend three consecutive meetings of the Board---namely myself, Dr. Nagapna Gowda, Sri. S.Virupakshappa, and Sri. D.Hanumantha Reddy. He has also declared that I have ceased to be the President of the Bank.

2. The said order is contrary to justice, and the facts of the case. Further it is ultra vires, as the Deputy Registrar has no power to give such a declaration under S. 51 of the Madras Cooperative Societies Act. The decision is further vitiated by this important particular that the decision of the dispute involved a decision of the conduct of the Deputy Registrar himself, and the effect of the decision is that the Deputy Registrar had sat on judgment in his own cause and acquitted himself. The decision is therefore repugnant to all cannons of natural justice.

3. I have appealed to the Government against the order.

4. The result of the said decision is to hamper the work of the Bank. The four directors disqualified by reason of the order are the representatives of the copperative societies of the Hadagalli, Hospet, Adoni and Alur taluks respectively. Though the order was made on the 29th of last month, no steps are being taken to convene meetings of the delegates of the Cooperative Societies

10
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in the concerned taluks for election of directors. The Deputy Registrar and the group in the Central Bank which is promoting factitious strifes and hampering the work of the Bank are not anxious that the directors from these taluk cooperative societies should be elected, as they apprehend and rightly-that the old directors who enjoy the confidence of their electorate would be returned back. It is the object of this group to postpone the elections and deny to these taluks the privilege of representation in the Central Bank.

5. This petition is to request you as the Chief Executive of the Cooperative movement in the province to see that decent democratic practices are observed and that the Cooperative Department of the Government of Madras, which in spirit and in law, is only advisory and supervisory does not identify itself with particular groups and factions.

6. The By-laws of the Bank provide that"The Society representatives shall be elected by the representatives of the shareholding societies at the meeting of the representatives of the societies of the concerned taluks to be convened by the President, or at the general meeting of the representatives of societies'---Bye-law, No. 17(1). As I have been declared to have ceased to be the President, and no other person has been appointed President there is no person to convene the meeting of the representatives of the Societies to elect Directors in the place of those who have been declared to have ceased to be directors. It is therefore upto the Deputy Registrar to see that a general meeting is convened to elect the directors. The majority in number of the representatives of the Societies of the concerned taluks have expressed their demand for the convening of a general meeting

and a petition will be presented in the near future to convene meetings for the election of the representatives. If no action be taken thereon, the majority in number of the representatives of the Societies in the concerned taluks will proceed to call a meeting themselves to elect the directors. That will be perfectly valid proceeding and the democratic method of filling up vacancies.

7. I therefore request you to instruct the Department of Cooperation to afford all facilities in the holding of the said meetings for the election of society representatives at the earliest possible time, to recognise the validity of the election at a meeting which might be convened by the majority in number of the representatives of the societies in the concerned taluks, and to assist in the promotion of cooperative movement in the ~~country~~ district.

For which act of kindness, myself and the public interested in the development of cooperation will be grateful to you.

Address of the Petitioner.

A. Chennabasappa,
Hirahadagalli,
Bellary District.

Yours obediently.
A. Chennabasappa
12/11/48.

Dev. Dept.

Endt. no 120060 BII/48-2 dt 22.11.48

Referred to the R.C.S. for remarks.
Petitioner in continuation of memo. 120060 BII/48-1 dt 15.11.48

22/11/48

22/11/48

To the R.C.S.
R.15.12.48

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Pl. Note 11/12/12

Decision

Memo no. 120060 B4/48-3 dt- 8.12.48.

Sub:- Acts & Rules - Coop. Societies Act.
The Hooper Corp. Central Bank
Boards of Management - Removal -
Appeal.

Ref:- Govt. Memo. no. 120060 B II/48-1. dt 7 nil
dated 15-11-48.
Govt. Endr. no 120060 B II/48-2 dt 22.11.48
-"- & 11 nil

The Regs. is requested to expedite
his reply to the reference cited

Dr
7/12/48

Clerk
- 8/12/48

To the Regs.
and
Typing 22/12

13

COOPERATIVE DEPARTMENT

From

Sri Rao Bahadur [illegible] Ryan, M. A.,
Registrar of Cooperative Societies,
Chepauk, Madras.

To

The Secretary to Government,
Development Department,
Fort St. George, Madras.

135758

Rc.110776/48-B. dated 15th December, 1948.

Sir,

Sub: ARBITRATION - The Hospet Co-operative Central Bank - Bellary district - Board of management - disqualification of directors - appeal under section 57 of the Madras Cooperative Societies Act.

Ref: Development Memorandum No. 120060 B.II/48-1, dated 15th November, 1948 and Endorsement No. 120060/B.II/48-2, dated 22nd November, 1948.

According to bylaw No. 17 of the Hospet Cooperative Central Bank, the management of the Bank shall vest in a Board consisting of 14 directors, of whom 9 shall be society representatives - one for each taluk. The following gentlemen were the directors of the Bank representing the societies in the taluks noted against each.

1. Sri A. Chennabasappa - Hadagalli
2. Dr. R. Naganna Gowda - Hospet
3. Sri S. Virupakshappa - Adoni
4. Sri D. Hanumantha Reddi - Alur

The first three directors were members of the Executive Committee of the Bank. Sri A. Chennabasappa was the President of the Bank.

2. One Sri A. Narayana Bhatt, a director and member of the Executive Committee of the Central Bank, filed an arbitration reference before the Deputy Registrar, Bellary, representing that all the above four directors absented themselves for three duly constituted meetings of the Board of Directors called consecutively on 2nd May, 1948, 15th May, 1948 and 13th June, 1948 and that they ipso facto ceased to be directors under by-law No. 20 of the bylaws of the Bank. It has also been represented in the plaint that though this fact was brought to their notice, the President and the directors continued to conduct the business of the bank. The plaintiff has, therefore, prayed that it might be declared that the above four gentlemen ceased to be the directors of the Bank, that Nos. 1, 2 and 3 also ceased to be the members of the Executive Committee and No. 1 to be as President. The Deputy Registrar, Bellary, enquired into the arbitration reference. The first three respondents appeared before him and deposed. The fourth respondent remained ex-parte. The Deputy Registrar framed the following issues:

1. Whether the Court has jurisdiction to try this reference under section 51 of the Act;
2. whether the meetings called for and not held for want of quorum be considered as meetings for purposes of bylaw-No. 20; and
3. whether the respondents absented themselves for the three consecutive meetings and ceased to be members of the Committee.

The Deputy Registrar recorded the evidence properly and gave a clear judgment on all the issues. His final decision is that

all the.....

all the four respondents ceased to be the directors of the Central Bank from 13th June, 1948. The judgment of the Deputy Registrar may be perused at pages 163-169 of the claim file (enclosed)

3. Against this decision, Sri A. Chennabasappa has filed an appeal petition under section 57 of the Act before Government. I submit below my remarks on the grounds of appeal.

Item 1 vide para 3 above The first ground is that the order of the Deputy Registrar is contrary to law, opposed to the facts and probabilities of the case and is against the weight of evidence; this is too general.

Item 2 vide para 3 above The second point raised is that the question of directors having ceased to be such is not a dispute relating to the business of a registered society and that the term 'DISPUTE' in section 51 has been held not to include the questions of constitution and membership. The Deputy Registrar framed an issue on the question of jurisdiction and decided that the subject matter is a dispute touching the business of a registered society, "in as much as the plaintiff alleged that the by-laws framed to regulate the business of the bank have been disregarded" and that his (Deputy Registrar's) court has jurisdiction to try it under section 51 of the Act. I agree with the finding of the Deputy Registrar on this issue.

Pp 17-18 of the Act (vide para 2 above)

K.

The next ground for appeal is that the Deputy Registrar acted with material impropriety in deciding the reference himself. It is alleged that the Deputy Registrar conducted himself prejudicial to the interests of the repondents in the dispute including the petitioner; that he attended the Board meeting on 13th June, 1948, at the instance of the petitioner's opposite group and conducted himself as if he had openly identified with the opposite group; that he removed the attendence register before the time fixed for the meeting on 13th June, 1948, at the instance of the petitioner's opposite group with the intention of preventing the petitioner and other respondents in the dispute from recording their attendance in the said register; that the Deputy Registrar decided in his ex-parte order Rc.No.2307/47-B dated 13th June 1948 that the petitioner and two other directors ceased to be Directors and that in the said order the name of Sri D. Hanumantha Reddi was not included because the said individual belonged to the group with which the Deputy Registrar identified himself, that on an appeal to the Registrar the aforesaid ex-parte order was set aside; that the adjournments asked for were contemptuously refused and that the Deputy Registrar has entered into acrimonious correspondence with the petitioner some time before and for such reasons he was not a person in whom the defendants could reasonably be expected to have confidence. It is added that the action of the Deputy Registrar in deciding the reference himself is repugnant to natural justice! The general allegations that the Deputy Registrar is prejudiced against the petitioners and the other respondants may not stand to reason from a perusal of the judgment of the Deputy Registrar, which is very clear on all the issues and based on the recorded evidence. As regards the allegation that the attendence register was removed before the time fixed for the meeting on 13th June, 1948, it is reported that the time for the meeting was 3 p.m. whereas the register was taken into custody by the Deputy Registrar after 3.30 P.M. I invite attention to para 11 of the judgment. The alleged order of the Deputy Registrar that the petitioner and two other directors ceased to be as such referred to by the petitioner is not an "Order". It is a letter addressed to the Secretary of the Society. I submit herewith a copy of the letter under reference. With reference to this letter Sri A. Chennabasappa

Pp 17 below

Pp 163-169 of

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Pp 167-168 of

X

represented.....

represented the matter to me on 15th June, 1948 and I informed him in my letter Rc.629/47-A dated 22nd July 1948 that the Deputy Registrar expressed his view in the form of a letter and it is not a judicial decision and that if a judicial decision is sought for, it would be given when a dispute is filed under section 51 of the Act. I also informed the Deputy Registrar that his letter was not a judicial order and that it had no legal effect and that a decision given under section 51 alone would be binding and enforceable. The director, Sri A. Narayana Bhatt, subsequently filed an arbitration reference and obtained a judicial decision. The circumstances under which the Deputy Registrar has given his decision under section 51 of the Act will have to be viewed in this light and no purpose will be served by imputing motives against the Deputy Registrar. The letter Rc.No.2367/47-B dated 13th June, 1948, of the Deputy Registrar is not an order and it is not correct to say that it was set aside by me on appeal filed by the petitioner. As regards the omission of the name of Sri D. Hanumantha Reddi in the letter of the Deputy Registrar referred to by the petitioner, the Deputy Registrar has reported that the said letter referred to the names of directors who were also members of the Executive committee and not to the other directors. Sri D. Hanumantha Reddi was not a member of the Executive Committee. As regards the allegation that the Deputy Registrar contemptuously refused requests for adjournments, the Deputy Registrar has stated that the case was originally posted on 8th September, 1948, adjourned to 20th September, 1948, 29th September, 1948, 24th October, 1948 and 29th October, 1948 at the requests of the respondents from time to time and finally disposed of on 29th October, 1948. The Deputy Registrar has also stated that there was not an instance where any acrimonious correspondence went out of his office.

As it is an important dispute affecting a premier institution in the district and as it involved interpretation of bylaws, the Deputy Registrar himself took it up for enquiry and disposal. Further, the dispute is between "officers" of the Central Bank and it indirectly comes under the purview of Section 51(1) (c) of the Madras Cooperative Societies Act. According to the orders of Government in G.O.Ms.No. 2677, Development, dated 2nd November, 1939, the Deputy Registrars should themselves enquire and dispose of such references after obtaining the previous permission of the Joint Registrar or Registrar for their entertainment. The Deputy Registrar has obtained the permission of my Additional Joint Registrar for its entertainment. The petitioner cannot question the action of the Deputy Registrar in deciding the dispute himself. As regards the removal of the attendence register, I submit the explanation of the Deputy Registrar elsewhere in this letter. The next grounds put forth is that the Deputy Registrar misintrepreted the by-law No. 20 and that the respondents cannot be disqualified for failure to attend a 'gathering which never became a meeting for want of quorum'. The finding of the Deputy Registrar on this issue is very clear. It is also based on the instructions issued in Registrar's letter D. 16513/47-A dated 2nd December, 1947, a copy of which is enclosed for reference. This Department has always held the view that when a meeting is called and if only two members meet, it is still a meeting whether there are enough members to form a quorum and transact business or not. Please see Registrar's Dis. C.4561/23 dated 24th October, 1923, copy of which is enclosed.

The petitioner refers to the evidence of the accountant of the Bank. I invite attention of Government to the deposition of the accountant and also para 11 of the judgment of the Deputy Registrar. The petitioner also refers to the action of the

Deputy Registrar..

Deputy Registrar in taking away the attendence register. I extract below the explanation of the Deputy Registrar in this matter.

'The petitioner has said more than much that the attendance register was removed by me from the bank insinuating that I did so only to do him injustice. I have taken the attendence register into my custody only in duty bound to do so in unavoidable circumstances. I am fully confident that my action is justified by Law in as mush as it prevented the clandestine usage of the same by affected parties which would have led miscarriage of justice. In fact, two directors who were absent at the meeting place within half-an-hour after the scheduled time on 2nd May, 1948 signed in the attendence register and made improper use of the same and even draw travelling allowance, a recurrence of which had to be prevented. I, therefore, had to take the attendence register into my custody in my capacity as the district administrative authority. A receipt was given for the same to the person in charge of the Bank before the book was taken into my custody. On the same night (on 13th June 1948) the petitioner sent the enclosed letter (original enclosed) demanding the return of the book which I refused to do. If as he contends in the petition he was really present at the meeting place on 13th June, 1948, there was no possibility for my taking the book into my custody by any means. Much unpleasantness would have followed any such attempt on my part. Nevertheless, I had to be prepared for facing consequences in the discharge of my duty. This fact also confirms the petitioner's absence at the meeting on 13th June, 1948. I did not deal with this aspect in my judgment because my judidial finding should not be based on any other piece of evidence not brought up before me while hearing the case.'

The last ground put forth is that the Deputy Registrar is in error in having held that Sri S. Virupakshappa did not attend the meeting on 2nd May, 1948. The petitioner should not have bothered about the case of the other respondents and he does not seem to have any authority to plead on their behalf. However, the attention of Government is invited to para 13 of the judgment in which the Deputy Registrar discussed the evidence regarding this point and gave his decision.

4. In conclusion I submit that the revision petition does not merit any consideration. In their endorsement cited as item(2), Government have communicated a copy of the petition of Sri A. Chennabassappa. In paragraphs 4, 5, 6 and 7 the petitioner complains about the delay caused in convening the meetings of the delegates of socities for election of directors in the vacancies caused by the disqualification of the four directors and states that the representatives of societies will proceed with the elections etc. The question of election of directors in the place of the Directors disqualified will arise only after the disposal of the appeal petition now before Government. There is no need to call for or convene any meeting at this stage pending disposal of this appeal petition. Para 5 of the petition does not call for any comment.

The following records are submitted herewith:

1. Deputy Registrar's F.Dis.1958/48-F (with cl. file No.94/48 (pages 196)
2. Petition dated 12th November, 1948 of Sri A.Chennabassappa received with Government Memorandum cited as item No. 1.

Registrar.

kvh. 15.12.

17

Copy of letter Rc. No. 2307/47 B, dated the 13th June, 1948, from the Deputy Registrar of Cooperative Societies, Bellary, to the Secretary, Hospet Cooperative Central Bank Ltd. Hospet.

Sub: Hospet Cooperative Bentral Bank, Ltd.

Three members of the Board of Management, Sri A. Chennabasappa, B.A., Dr. R. Nagana Gowd, M.Sc., ~~RxMdx~~,Ph. D. and S. Virupakshappa who are also members of the executive committee absented themselves for three consecutive meetings of the Board of Management inclusive of to-day's meeting of the Board posted at 3 P.M. As such they cannot function under bylaw No. 20 as executive committee members. Please note that any meeting of the executive Committee conducted with them becomes invalid. Sri A. Chennabasappa cannot function as President.

(True copy)

(2/4)

J.C.Iyer
Registrar.

kvh. 16.12.

16/12/48

19

Copy of letter No. D. 16513-47 A, dated the 2nd December, 1947 from theRegistrar of Cooperative Societies, Madras, to the Deputy Registrar of Cooperative Societies, Cuddalore (copied to all other Deputy Registrars for information).

Sub: Board meetings - Meetings held and adjourned for want of quorum - meetings for purposes of disqualifying a director for continuance without reinstatement - instructions issued.

Ref: Your letter Rc.3116/47 C, dated 13th September, 1947.

When a meeting is called, even if only 2 members meet it is a meeting whether there are enough members to form a quorum and transact business or not.

If a meeting is called and a member does not attend, he must be shown as absent. It is immaterial whether the meeting was able to transact business or not.

(True copy)

3/4

J.C.Iyer

Registrar.

16/12/48

21

Copy of letter Dis.C. 4561/23 dated the 24th October, 1923 from the Registrar of Cooperative Societies, Madras to the Assistant Registrar of Cooperative Societies, Mangalore.

Sub: Meeting - Adjourned - Want of quorum - Is it a meeting for purposes of bylaw 22 of the model bylaws of primary Credit Society.

Ref: Your letter No.Rc.1499/23 dated 12.10.1923.

A meeting is called and if only 2 members meet it is a meeting whether enough members to form a quorum and transact business or not.

If a meeting is called and a member does not attend he must be shown as absent. It is immaterial whether the meeting was able to transact business or not.

(True copy)

4/4

J.C.Iyer
Registrar

16/12/1089

CO-OPERATIVE DEPARTMENT.

23 27

From
Sri Rao Bahadur J.C.Ryan M.A.,
Registrar of Cooperative Societies
Madras.

To
The Secretary to Government,
Development Department,
Fort St., George Madras.

SECRETARIAT TO GOVT. 4 DEC 1948

Rc.No.629/47 A. Dated: 22-12-1948.

137983 24/12/48

Sir,

Sub:- The Hospet Central Cooperative Bank Limited-affairs of - Further report -

Ref:- My letter No.629/47 A dated 2-11-1948 in reply to Government Memo No.61914-BII/48-2 Development dated 20-7-1948.

In my letter cited, I reported to Government that five individual share holders had been elected to the Board of Management of the Bank in the meeting held on 23-10-48. Thus the full strength of the Board (nine society representatives and five individual share holders) was constituted.

2. One of the Directors Sri Narayana Bhat filed an arbitration reference before the Deputy Registrar Bellary on 28-7-1948 contending that four of the nine society representatives on the Board ceased to be directors under bylaw No.20 of the bylaws of the bank, due to their having absented themselves from three consecutive meetings of the Board. The arbitration case was taken on file by the Deputy Registrar Bellary and after an enquiry he gave his decision on 29-10-1948 that the four society representatives ceased to be the directors of the Bank. Of these four, three were in the Executive Committee. One of these was also the President of the bank. Thus 4 seats out of 9 society representatives fell vacant. On date, the bank has no President and there are only 10 members on the Board, viz. 5 society representatives and five individual share holders.

3. Against the decision of the Deputy Registrar, Bellary, disqualifying the four directors, two appeal petitions were filed before the Government. These petitions were forwarded to me for remarks in Government Memorandum No.120060 BII/48-1 dated 15-11-1948 and 120603II/48-2 dated 22-11-1948, and I have submitted my remarks in my R.C.110776/48 3 dated 15-12-1948.

4. Of the ten members on the Board of Management, the 5 representatives of individual share holders are reported to belong to one party and the other five society representatives to the opposite party. They do not cooperate and do not see eye to eye with each other in administering the affairs of the bank.

5. A meeting of the Board of Management was convened on 7-11-1948, but only 5 directors were present, while the quorum for a Board Meeting was 8. The directors present elected a chairman and recorded in the minute book that "as there is no quorum the meeting is adjourned to 21-11-1948 3.P.M. " Under bylaw 22 no resolution of the Board will be valid unless it is assented to by 6 directors. The resolution to adjourn the meeting to 21-11-1948 could not be given effect to as it is not valid resolution. Under the subsidiery rules of the Bank, the President has to call for the meetings of the Board; but as the post of the President has fallen vacant, there is no one now to call for a Board meeting. Thus, the reinstatement of the directors who lost their seats on account of failure to attend three consecutive meetings is out of question.

P.T.O.

6. The next course is to convene a general meeting to hold election for filling up the 4 vacant seats under bylaw 17(1). This meeting has also to be convened by the President. In his absence no general meeting can be convened by the Bank for election of directors. The Deputy Registrar can convene a general body meeting under section 15 of the Cooperative societies Act; but he convened the only recently on 23.10 - 1948. Apart from the expenses of a general body meeting there is no likelihood of such a general body producing a committee which can work as a team.

7. Thus a deadlock has been created in the affairs of the Bank. The troubles that began with the first election of directors on 19-3-1947 have not ended even after a year and nine months have elapsed. In the meantime, the administration of the Bank has suffered a great deal. In the circumstances, I see no other way out than to supersede the Board of Management of the Bank with immediate effect. I request to be informed if Government have any objection to my superseding the Committee in pursuance of my notice to it dated 24-6-1948 on which Government ordered in their memorandum No.61914 B.II/48-2 Development dated 20-7-1948 that the supercession notice should be kept in abeyance.

P Achuthan

TDV/22.12. for Registrar.

25 29 Red 29/12

The Bellary Central Co-operative Stores Ltd.,

Y. 349.

H. LINGA REDDY
PRESIDENT.

BELLARY.
23rd December 1948

D.O.

My Dear Sri. Chandramouli,

You are aware that on account of the dishormony existing among the Directors and consequently complications the administration of the Hospet Central Bank has come to a stand still. There is at present no President and there is no possibility for the Executive Committee or the Board to function, with the result that all the constituent societies including the Central Stores have been suffering for want of timely loans from the Central Bank. You know the B.C.C.Stores is responsible for maintaining the rationing in the three Municipal Towns of Bellary, Adoni and Hospet and it has also undertaken a responsible scheme of textiles and oil-cake distribution. It is therefore in need of loans at least once a month, without which the entire business will come to a stand still. Similar is the case with the Primary Coop.Stores which deal in foodgrains and also Textiles. Weavers' Societies also will be badly affected. In view of the appeal petition filed by the Ex.President I fear it may take a long time for the administration of the Central Bank once again to come into its own, and business cannot afford such a delay. In the interests of the satisfactory working of the Bank I feel that its affairs should, for sometime at least, run by the Government officers. I would therefore request you to pass immediate orders on the appeal petition so that the present difficulties may be solved immediately and pending appeal the Bank to run by Government officials till it is disposed off.

I hope you had pleasant time at Jaipur Congress Sessions. I will meet you at Madras when I come next. Excuse my long delay.

Yours sincerely,

The Hon'ble Sri. K.Chandramouli,
Minister for Local Administration
and Cooperation, Govt.of Madras,
Fort St. George, Madras.

Secretary
21/1/49

Rev. Dept.

Acts and Rules – Cooperative Societies Act.
Sec. 54 – Hospet Co-op. Central Bank –
Boards of Management – Removal
Appeal – Orders passed.

Rep. 1-6 CF. Read: Petition from Sri A. Channabasappa, dated 12-11-1948

Rep 13-16 CF. Letter from the R.C.S. Rc. II 0776 | 48-B

Rep. 23-24 CF. —do— —do— dated 15.12.1948. Rc. 629 | 48. A. Dec 12.48

Order No 282 dated: 21-1-49

v Rep 1-6 CF. In his petition cited, Sri A. Channabasappa has appealed against the decision of the Dy. Registrar of Cooperative Societies, Bellary, in claim No. 94 of 1948. In this decision the Dy. Registrar has held that Sri. A. Channabasappa and 3 other directors of the Hospet Cooperative Central Bank have forfeited their membership of the Committee of the Bank, under bylaw 20 of the bylaws of the Bank, consequent on their failure to attend 3 consecutive meetings of the Committee. The petitioner has contended that, inasmuch as these meetings were not held for want of quorum, he could not be deemed to have failed to attend a "meeting" of the Board. On this question the Dy. Registrar has held that "even if 2 members of the Committee attend a meeting duly called for and transact no business for want of quorum, it is a meeting for the purpose of bylaw 20". The Govt. have examined this question and have been advised that one of the requisites of a valid meeting

x Rep 163-169 of (X).

Rep 168-169 of (X)

Para 4 p 1 CF

x 'B' Rep 169 of (X)

pl see legal note Rep 5 NF

is that it must be properly constituted and to constitute a meeting it is essential that a quorum is present. As it is reported that there was no quorum in all the three meetings under dispute, the petitioner and the other three directors could not be deemed to have forfeited their membership of the Committee on the grounds of their failure to attend the said meetings. The Deputy Registrar's decision in claim no. 94 of 1948 is accordingly hereby set aside

Pl. see para 2 p1 CF. of 'A' & p 63 CF of (W)

p. 163-166 of (X)

2/ The Dy. Registrar's decision in para. 1 above is based on the Registrar's circular no. Dis. C. 4561/23 dated 24. 10. 1923 The Registrar is requested to issue revised instructions in the light of the orders in para. 1 above He is also requested to submit a fresh report on the affairs of the Bank in the light of the present orders of Govt.

p 21 CF

Pl see orders on p 5-6 PF

21/1/49

Reg 21-1 dep

To Sri. A. Chennabasappa Hirehadagalli, Bellary Dt. (Para 1 only)

Records and all the papers. So returned. To R.C.S.

To the R.C.S. (with records as per their requirements)

22/1/49 Dy. Registrar FAPis. 1958/48 F. with cl. file no. 94/48 (Proceedings. 196).

Ans to R.C/S with Records

25/1/49

CBa 20.3.49

Entered KBN

Co. Dept.

Sub:- Acts & Rules. Coop. Societies Act. Hospet Coop. Central Bank - Boards of management. Removal — Petition under Sec. 54 of the Act.

C.No. 120060 BII/48

Ref: Petition from Sri Channabasappa d 12.11.48

The petition in the C.F. is against the decision of the Dy. Regr. of Coop. Societies, Bellary that the petitioner & 3 others ceased to be members of the Boards of management of the Cooperative Central Bank Hospet, ~~Bellary~~ Consequent on their failure to attend 3. ~~consecutive~~ consecutive meetings of the Boards. The petitioner requests that the Govt. may direct, that pending the disposal of the petition he and the three other directors may function as members of the Boards of management of the Bank. The remarks of R.C.S. may first be obtained on the appeal petition. A draft memo is submitted for approval. Before examining the merits of the case it does not seem proper to issue a direction as at 'A' above. Your orders.

12/11/48.

ST on L

Issued as Memo. No. 120060 BII/48-1 dt 15-11-48

Ref 9-11 CF. From Sri. Channabasappa petition d 12-11-48.

Attention is invited to the ~~petition~~ petition from Sri. Channabasappa to DM (Hqrs.) on Pp 9-11 CF. This may also be sent to the R.C.S. in continuation. A draft Endt. is ~~submitted~~ submitted for approval on 11 CF.

22/11/48

Issued as Endt. 22/11/48 to the R.C.S. on 120060 BII/48-2 d 22.11.48.

11 CF.

Issued as Endt. to the R.C.S.No.120060 BII/48-2 dated 22-11-1948 — P 11 C.F.

Letter from the R.C.S.No.Rc.110776/46-B d/15-12-1948 — ff 13-16 C.F.

-do- 629/47-A dated 22-12-48 — ff 23-24 C.F.

Letter from Sri H. Linga Reddi, President, The Bellary Central Co-op.Stores, dated 23-12-1948. — f 25 C.F.

This file relates to an appeal petition from Sri A. Channabasappa, Ex-President of the Hospet Co-op. Central Bank, Bellary District against his removal from the Board of management of the Bank consequent on his failure to attend 3 consecutive meetings of the Board. A brief account of the affairs of the Bank during preceding about 2 years is given below:

According to the Bylaws of the Bank the management of the Bank shall vest in a Board consisting of 14 directors of whom 9 shall be Society representatives and 5 shall be representatives of individual share holders. The last general election to the Board of Management was held on 19-3-47, when a Board of 14 directors consisting of 5 individuals and 9 Society representatives was elected. One of the contestants, who failed to get elected, filed an arbitration reference questioning the validity of the election of the individual directors. The Deputy Registrar, on enquiry into the reference, declared the election of the directors invalid and ordered the conduct of a fresh election. Revision petitions to the Registrar and the Govt. against this order were also rejected. The President failed to take proper steps to call for a general meeting to elect 5 individual directors. In the meanwhile the President and 3 other directors representing the Societies lost their seats in the Board of management due to their failure to attend 3 consecutive meetings. Then the Board was left with 5 directors. As the quorum for a Board meeting was 8, the five directors could not meet and carry on business. To end the deadlock the Registrar issued a notice of supersession under Section 43 of the Cooperative Societies Act. Representations were made to the Govt. and As ordered by H.M.(Co.) the Registrar was asked to hold the supersession notice in abeyance and arrange for a general body meeting.....

Pl. see para 2 p 59 C.F. (W)

— do —

— do —

— do —

para 4 p 60 C.F. (W)

* para 4 p 60 C.F. (W) p 61 C.F. (W)

p 9 M.F. (W)

meeting to elect the 5 directors representing the individual ~~directors~~ shareholders. A meeting was accordingly called for by the Dy. Registrar on 23-10-48, and 5 individuals directors were elected This step has not however solved the deadlock as 4 directors representing the societies including the President, are reported to have lost their seat, under bye-law 20 of the Bank's bye-laws consequent on their failure to attend 3 consecutive meetings, and the Board is thus left with only 10 directors. On a reference under S.51 of the Act by a director of the Bank, the Dy. Registrar held as at A above that decision. The present appeal is ~~examined below~~ is an appeal against

The appeal is from Sri A. Chennabasappa, Ex-President of the Hospet Central Bank against the decision of the Deputy Registrar on claim No.94 of 1948, holding that the President and 3 other directors representing the Societies have lost their seats consequent on their failure to attend 3 consecutive meetings. The appeal petition is on pp.1-6.c.f. The Registrar's remarks on the appeal are on pp.13-16 c.f. The main grounds of appeal are:-

1. that the petitioner did attend one of the three meetings in question;
2. that even, if he did not attend, all the three meetings (in as much as the same meetings) were not held for want of quorum, he would not be deemed to have failed to attend a "meeting" of the Board;
3. that the Deputy Registrar had no jurisdiction to entertain the reference as the matter was not a dispute relating to the business of the Society;
4. that the Deputy Registrar acted improperly in deciding the refernce himself as he was personally concerned with the subject matter of the dispute; and

These are examined below in the light of the Registrar's remarks:

Item (1) above: The petitioner states that he was in the Bank premises on 13-6-48 when the meeting was called but that he could not sign the attendance register as the Deputy Registrar removed the register long before the time fixed for the meeting. The Regr. states that the time fixed for the meeting was 3 p.m., whereas the Register was removed by the Deputy Registrar after 3.30 p.m. Sri R. Basilingiah, an Accountant of the Bank has deposed that the President did not come to the meeting hall even at 3.30 P.M. There is no evidence to show that the Deput Registrar removed the Registers before the scheduled time for the meeting.

4.

Item (2) above:- The petitioner's contention is that the three meetings in question cannot be deemed to be "meetings" for the purpose of the bylaw as they were never held for want of quorum. The Dy.Regr. has dealt with this question in para 10 of his Judgment on p.167 c.f. The Deputy Regr. and the Regr. hold that when a meeting is called for and if only two members meet, it is still a meeting whether there are enough members to form a quorum and transact business or not. Legal Dept. may be requested to advise on this point.

Item (3) above:- The Dy. Regr. and the Regr. hold the view that the subject matter of the dispute is a matter affecting the business of the Society in as much as the bylaws framed to regulate the business of the Society have been disregarded. The contention of the petitioner that the Dy.Regr. had no jurisdiction to try the arbitration reference does not seem to be correct.

Item (4) above:- The Registrar states that the Deputy Registrar himself took up the reference for enquiry after obtaining the previous permission of the Addl.Jt. Registrar, as it is an important dispute affecting a premier institution, and as Govt. have ordered that such references should be enquired into by Deputy Registrars themselves. As the Dy.Regr.'s findings are based on recorded evidence it does not appear that the petitioner can have any real grievance on this account.

For the reasons stated in his further letter on pp.23-24 c.f. the Registrar requests Govt. orders for superseding the committee of the Bank. Attention is also invited to the letter from the President of the Bellary Central Co-op. Stores. Orders on this point may be taken in due course in circulation. The file may be sent to Legal Dept. with reference to 'A' above.

ASSISTANT SECRETARY
4 - JAN 1949
LEGAL DEPARTMENT

3/1/1949

As Hon. desired that the question at 'E' above should be examined in consultation with Legal, the file may please be sent to that Dept. for advice

3/1

3/1

Legal

V. Nagaraj
Dep. Sec. 3.1.49.

LEGAL DEPARTMENT

One of the requisites of a valid meeting is that it must be properly constituted and to constitute a meeting it is essential that a quorum is present. What the quorum is is regulated by statute, standing orders, articles or rules or custom. It is stated at page 2 ante that the quorum is 8. If this is correct and there was no quorum at any of the "meetings", there would have been no valid meeting and so no forfeiture would have been incurred on this ground.

Legal u.o. 72/49
17/1/49.

~~53 47 in B/1/49~~
~~18.1.49~~

16.1.49 B/1/49

Dy Registrar B/1/49.
18.1.49.
Development Deptt.

Attention is invited to the notes from page 2 above. In view of the Legal Deptt. opinion above, it appears that the Deputy Registrar's decision in having held that the Appellant and 3 other directors have lost their seats, consequent on their failure to attend three consequtive meetings of the Board of Directors, is not correct, as all the three meetings were adjourned for want of quorum. For orders whether the Dy. Registrar decision at 'A' above may be set aside. If this is done the Board will have the full strength of 14 members and the question of supersession of the Board need not be considered now.

18/1/49 The Deputy Registrar's decision which is not in accordance with the opinion of Legal as to what constitutes a 'meeting' for the purpose of bye-law 20 has to be set aside. As the D.R's decision seems to be based on the Regrs circulars on the subject, he will have to be issued suitable instructions. The Regrs. may also be advised

6

Cro 120000 BR/Ker

to submit a fresh report with 23
appeal u/s the Bank in the light 19/1
of the present orders of Court

Rg
19/1/49 Dy)

W.

In view of what has been stated in the preceding page by the Legal dept the decision of the Dy Registrar dismissing the appellant and 3 others on the ground of their absence at 3 consecutive meetings of the Board Bank cannot be sustained. The appeal may be allowed

WR
19/1

H.M (LA) 20/1

W 20/1

A draft order is submitted for approval.

Rg
21/1/49

21.1.49

(Issued as G.O. No MS. 282. dt 21-1-49)

COOPERATIVE DEPARTMENT

From

Sri J. C. Ryan, M.A.,
Registrar of Cooperative
Societies, M A D R S.

To

The Secretary to Gover[illegible]
Development Departme[illegible]
Fort St. George, M[illegible] D R A S.

Rc.629/47.A. d/7.3.49.

Sir,

Sub. Hospet Cooperative Central Bank - Working [illegible]

Ref. G.C. [illegible]s. No. 282 Development, dated 21-1-1949.

In their [illegible]rders cited, Government wanted me to submit a fresh report on the affairs of the Hospet Cooperative Central Bank, consquent on the orders passed in paragrapah 1 of the G.O. cited.

The Executive Committee with its full complement of five members, and the Board of management with 13 out of 14 members met on 20th Feb.'49 and transacted the business of the Bank without any hitch. The Deputy Registrar, Bellary also met the Directors and impressed on them the need for mutual understanding in the interests of the movement.

I shall watch the affairs of the Bank.

for REGISTRAR.

vgs:7.3.

2

Development Dept

Please see G.O. ~~2+4~~282 Dev dated 21.1.49 at pp 27-28 CF of (I) - and the Registrar's letter at p 1 above. No action is called for on the Regr's letter. May be lodges after perusal and case added to the G.O at (II)

Dy. 10/3/49

12/3/49